

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES GILBERT, SR,

*Plaintiff,*

v.

JAMES RAYMER, *et al*,

*Defendants.*

Civil Action No. 2:22-cv-604

Hon. William S. Stickman IV  
Hon. Cynthia Reed Eddy

**ORDER OF COURT**

*Pro se* Plaintiff James Gilbert, Sr (“Plaintiff”) filed a Complaint alleging that his rights were violated under 42 U.S.C. § 1981. (ECF No. 8). To the best of the Court’s understanding, his claims arise out of being “forced” to take a plea bargain in February of 2022 in state court. (*Id.* at 4). Defendants James Raymer and Connor Battlin (“Defendants”) filed a Motion to Dismiss and supporting brief, arguing amongst other things that the Court lacks subject matter jurisdiction to hear Plaintiff’s claims. (ECF Nos. 17 and 18). After Plaintiff filed a Response (ECF No. 25), Magistrate Judge Cynthia Reed Eddy issued a Report and Recommendation on January 12, 2023, recommending that the motion to dismiss be granted, all claims against Defendants be dismissed with prejudice, and leave to amend be denied as futile. (ECF No. 26). Plaintiff was given until February 1, 2023, to file Objections to the Report and Recommendation. (*Id.*).

No Objections having been filed, the Court hereby ADOPTS Magistrate Judge Eddy’s Report and Recommendation as its Opinion. It concurs with her thorough legal analysis and conclusion.

AND NOW, this 13 day of February 2023, it is HEREBY ORDERED that Defendant's Motion to Dismiss (ECF No. 17) is GRANTED. Plaintiff's claims against Defendants are DISMISSED WITH PREJUDICE. The Court further holds that amendment would be futile.<sup>1</sup>

BY THE COURT:

WILLIAM S. STICKMAN IV  
WILLIAM S. STICKMAN IV  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> "An amendment is futile if it merely restates the same facts as the original complaint in different terms, reasserts a claim on which the court previously ruled, fails to state a legal theory, or could not withstand a motion to dismiss." 3 James Wm. Moore et al., *Moore's Federal Practice* ¶ 15.15 (3d ed. 2021).